

REMARKS

Applicant has carefully studied the Final Office Action of June 15, 2005 and offers the following remarks to accompany the above amendments.

Initially, Applicant appreciates the indication that claims 1-19 are allowable.

Applicant amends claims 20 and 23 to recite that the information is sent to one or more select communication devices when the event occurrence and the location indicia correlate with an event criteria and location criteria defined in a user-desired profile.

Claims 20-23 were rejected under 35 U.S.C. § 103 as being unpatentable over Amin et al. (hereinafter "Amin") in view of Lohtia. Applicant respectfully traverses. For the Patent Office to combine references, the Patent Office must do two things. First, the Patent Office must articulate a motivation to combine the references, and, second, the Patent Office must support the articulated motivation with actual evidence. *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999). Even if the Patent Office can properly combine the references, to establish *prima facie* obviousness, the Patent Office must still show where each and every element is taught or suggested. MPEP § 2143.03.

Applicant previously argued that the Patent Office had not properly supported the motivation to combine the references. Specifically, the Patent Office asserts that the motivation to combine Amin and Lohtia is so that the "user may receive any desired information based on time or predetermined times, location and event triggers that outlines when certain types of information are to be delivered." (Office Action of June 15, 2005, page 3, lines 20-22 and page 6, lines 10-12). As Applicant previously argued, this motivation lacks the evidence required by the Federal Circuit. The Patent Office's response is that "those skilled in the art may accept the combination of Amin and Lohtia can be used for rejections in claims 20-23. Please refer to the above rejections." (Office Action of June 15, 2005, page 6, lines 18-19). However, this response still does not provide the evidence required by the Federal Circuit. Absent evidence, the combination is improper. Since the combination is improper, the rejection based on the combination is improper. Since the rejection based on the combination is improper, the claims are allowable.

Even if the combination is proper, a point which Applicant does not concede, the combination does not teach the information is sent to one or more select communication devices when the event occurrence and the location indicia correlate with an event criteria and location

criteria defined in a user-desired profile as recited in the amended claims 20 and 23. Applicant has studied the references and finds no teaching or suggestion of the element in the references alone or in combination. As such, the combination does not teach or suggest the element. Since the combination does not teach or suggest the element, the combination does not establish obviousness and claims 20 and 23 are allowable.

Claims 21 and 22 depend from claim 20 and are allowable at least for the same reasons. Applicant requests withdrawal of the § 103 rejection of claims 20-23 at this time.

Applicant requests reconsideration of the rejection in light of the amendments and remarks presented herein. The references are not properly combinable and do not teach or suggest the information is sent to one or more select communication devices when the event occurrence and the location indicia correlate with an event criteria and location criteria defined in a user-desired profile. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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<p align="center">CERTIFICATE OF TRANSMISSION</p> <p>I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW TO:</p> <p>Examiner: <u>Nguyen, Hung T.</u> Art Unit: <u>2636</u> Fax: <u>571-273-8300</u></p> <p align="center"><u>Rebecca A. Hartner</u> Name of Sender</p> <p align="center">_____ Signature</p> <p align="center">_____ Date of Transmission</p>

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